

**DEPARTMENT OF TAXATION
2018 Fiscal Impact Statement**

1. **Patron** Janet D. Howell

3. **Committee** Passed House and Senate

4. **Title** Real Property Tax; Recapture of Deferred Taxes

2. **Bill Number** SB 228

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. Summary/Purpose:

This bill would provide definitions and rules to clarify when deferred real estate taxes are due on property in a tax deferral program for certain real estate owners who are at least 65 years of age, or permanently and totally disabled.

Under current law, taxes that are deferred must be paid without penalty within one year after the death of the last owner thereof who qualifies for tax deferral.

The effective date of this bill is not specified.

6. Budget amendment necessary: No

7. Fiscal Impact Estimates are: Not available. (See Line 8.)

8. Fiscal implications:

Administrative Costs

There could be unknown administrative costs to localities as a result of this bill.

Revenue Impact

There could be an unknown revenue impact to localities with a deferral program due to the clarification of when deferred taxes on real estate become due.

This bill would have no impact on state revenues.

9. Specific agency or political subdivisions affected:

Counties, cities and towns that have a real estate tax deferral program

10. Technical amendment necessary: No

11. Other comments:

Current Law

The Constitution of Virginia grants the General Assembly the authority to allow localities to exempt from local property taxation real property designed for continuous habitation, owned by, and occupied as the sole dwelling of persons not less than 65 years of age, or persons permanently and totally disabled. Under the Constitution of Virginia, the General Assembly has the authority to restrict or condition this exemption, but may not expand it.

Pursuant to this constitutional authority, Virginia law authorizes localities to adopt exemption and deferral programs to provide tax relief for persons 65 years of age or older and for those who are permanently and totally disabled who fall below certain income and net-worth limits. The governing body of any locality may elect to adopt an exemption program, a deferral program, a combination of both, or none of the above.

According to Weldon Cooper's *Virginia Local Tax Rates 2016*, six cities, four counties, and four towns offered a deferral program or some combination of a deferral and exemption program in Calendar Year 2016.

Localities that provide such programs may exempt or defer the real property taxes of the qualifying dwelling and the land, not exceeding ten acres, upon which it is situated.

If a locality offers a deferral program, the taxes that are deferred must be paid without penalty within one year after the death of the last owner thereof who qualifies for tax deferral.

Proposal

This bill would provide definitions and rules to clarify when deferred real estate taxes are due on property that was in a tax deferral program. The bill would limit the types of transfers of property that can be made without causing the taxes to become due.

The accumulated amount of taxes deferred would have to be paid to the county, city, or town concerned (i) upon the sale of the real estate; (ii) upon a nonqualified transfer of the real estate; or (iii) from the estate of the decedent within one year after the death of the last qualified owner. A "qualified owner" would be defined as the owner of the real property who qualifies for a tax deferral by county, city, or town ordinance.

The bill would define a "nonqualified transfer" as a transfer in ownership of the real estate by gift or otherwise not for bona fide consideration, other than (i) a transfer by the qualified owner to a spouse, including without limitation a transfer creating a tenancy for life or joint lives; (ii) a transfer by the qualified owner or the qualified owner and his spouse to a revocable inter vivos trust over which the qualified owner, or the qualified owner and his spouse, hold the power of revocation; or (iii) a transfer to an irrevocable trust under which a qualified owner alone or in conjunction with his spouse possesses a life estate or an estate for joint lives, or enjoys a continuing right of use or support.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 3/1/2018 SK
DLAS File Name: SB228FER161